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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,352	08/06/2003	Christopher J. Terrels	RAIL-107US	8899
23122	7590	06/27/2006	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980				NGUYEN, CHI Q
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/635,352	TERRELS, CHRISTOPHER J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chi Q Nguyen	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 September 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1, 10-12, 16-17 19-26, and 29-34 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 10-12, 17 and 19-24 is/are rejected.

7)  Claim(s) 1, 16, 25, 26 and 29-34 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All   b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/2/2005.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: *attachment of Figure 2.*

## **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 9/8/2005.

Upon further consideration, the previously stated allowable of claim 10 is being withdrawn and rejections are presented as following:

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 6/2/2005 was filed after the mailing date of the first Office action mailed on 4/22/2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

Claim 11 is objected to because of the following informalities: on page 2, line 4, of the claim 11, the citation "said first extension, said extension" should be read as –said first extension, said second extension--. Appropriate correction is required.

Claim 11 is objected to because of the following informalities: on page 2, line 8, of the claim 11, the citation "of said first extension remote form said junction" should be read as –of said first extension remote from said junction--. Correction is required.

Claims 16, 1, and 29-34 are objected to because of the following informalities: claim 16 is improperly to make a combination claim dependent on a subcombination claim. The applicant is advised to claim as an independent combination claim. Since claims 1, and 29-34 depending upon objected claim 16 are also objected. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Davis (US 5,956,920).

In regard claim 10 Davis teaches modular post cladding element comprising a plurality of interlocking identically configured pieces 20A, 20B, 20C, and 20D, each piece having a first extension A (see attachment of Figure 2) and a second extension 28 extending perpendicular from the first extension, the first extension of each piece having an internal channel 27 adapted to receive the second extension of another piece in a telescoping connection, said internal channel 27 in the first extension having a plurality of serrations or so-called ratchet teeth 32 configured to mate with a plurality of ratchet teeth 34 on the second extension 28, wherein said ratchet teeth in the first and second extensions are configured to slidably engage to allow the second extension to slide relative to the first extension into the channel 27, and further configured to lockingly engage to substantially prevent reverse sliding of the second extension relative to the first extension, such that the second extension is locked in engagement with the first extension (see Figures 2, 3, and 5).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 17, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (US 5,956,920).

In regard claims 11, 17, 19, 20, 21, 22, 23, Davis teaches modular post cladding element comprising a plurality of interlocking identically configured pieces 20A (a first trim piece), 20B (a second trim piece), 20C (a third trim piece), and 20D (a fourth trim piece), each piece having a first extension A or short side (see attachment of Figure 2) and a second extension 28 or long side extending perpendicular from the first extension, the first extension of each piece having an internal channel 27 closed at one end (where 26 points to) adjacent the junction with the second extension, and open at the distal end of said first extension 27 remote from said junction, said channel adapted to receive the second extension of another piece in a telescoping connection, the first to the second pieces, the second to the third trim pieces, the third to the fourth trim pieces, and the fourth to the first trim pieces, respectively, said second extension 28 of each piece further comprising at least one breakable joint 36, 38 configured to be broken apart to change the length of the second extension to a desired length (see Col. 50-56). Davis teaches the basic structures for the claimed invention as stated and further including the pieces assembly application to standard square posts (see Col. 3, lines 64065). However, Davis does not teach specifically the pieces forming a hollow rectangular frame. At the time of the invention, it would have been obvious to a person to

adjust the frame for desirable shape such as rectangular frame shape to support such rectangular shaped post, etc. would have been obvious matter design choice.

In regard claim 12, Davis teaches the basic structures for the claimed invention as stated above including a series of grooves 36, 38 for weakness lines for being cut to shorten the lateral dimension of the frame 20 (see col. 4, lines 50-56). Thus one of each groove 36 or 38 would have been functional equivalent to indicia because the grooves 36, 38 for weakness line to cut down a desired length as taught by Davis.

***Allowable Subject Matter***

Claims 16, 1, 25-26, and 29-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 10-12, 17, and 19-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

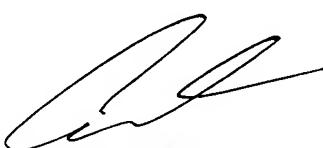
Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

6/20/2006

cm  
CQN



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

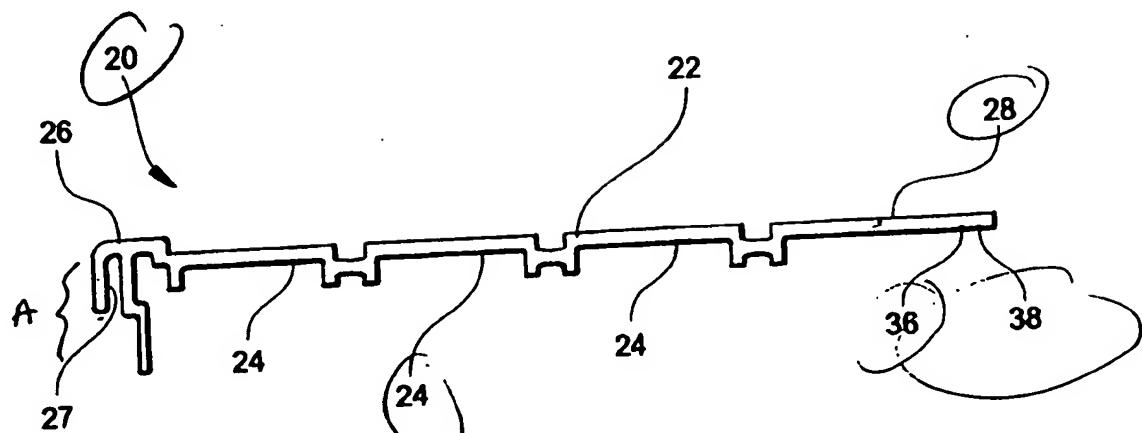


Fig. 2

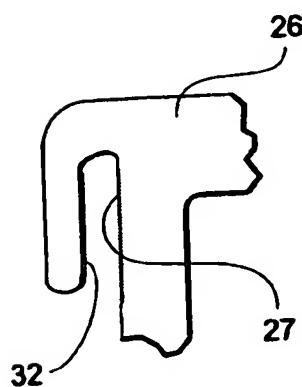


Fig. 3

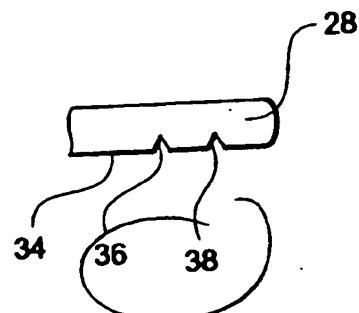


Fig. 4